

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JODI DAVIS,

Plaintiff,
v.

OPINION and ORDER

20-cv-964-jdp

KILOLO KIJAKAZI,
Acting Commissioner of Social Security,

Defendant.

Meredith E. Marcus, counsel for plaintiff Jodi Davis, moves under 42 U.S.C § 406(b) for a fee award of \$20,237.98. Dkt. 38. Davis was awarded \$80,951.90 in past-due benefits. Dkt. 38-1, at 3. The requested amount, which represents 25 percent of Davis's past-due benefits, falls within the amount allowed by statute and the parties' fee agreement. Dkt. 38-2. The motion is unopposed.

Counsel's firm spent 45.15 hours on this case for proceedings in this court, which represents 40.1 hours of attorney time and 5.05 hours of paralegal time. Most of that time was spent reviewing the administrative record and drafting plaintiff's briefs in support of reversing the commissioner's decision. Dkt. 38-4. If paralegal time is excluded from the calculation, counsel's requested fee results in a proposed effective rate of about \$504 per hour. That rate is reasonable in light of counsel's risk of non-recovery, the work she performed, the results she obtained, and the amounts awarded in similar cases. *See, e.g., DeBack v. Berryhill*, No. 17-cv-924-jdp, Dkt. 31 (W.D. Wis. May 4, 2020) (approving effective rate of \$800 per hour); *Fischer v. Saul*, No. 17-cv-327-jdp, 2019 WL 5310676 (W.D. Wis. Oct. 21, 2019) (approving effective

rate of \$641 per hour). The court will grant counsel's motion and approve a fee award in the gross amount of \$20,237.98 under § 406(b) for work done before this court.

Counsel was previously awarded \$9,203.99 in fees under the Equal Access to Justice Act. A portion of that award, \$8,183, was confiscated to pay plaintiff's debts to the government, Dkt. 38, ¶ 3, so counsel received EAJA fees of only \$1,020.99. Counsel may retain the \$1,020.99 that she received in EAJA fees in partial satisfaction of the § 406(b) award.

ORDER

IT IS ORDERED that:

1. Counsel's motion for attorney fees under 42 U.S.C. § 406(b), Dkt. 38, is GRANTED.
2. The court approves representative fees under § 406(b) in the gross amount of \$20,237.98.
3. Counsel may retain the \$1,020.99 previously awarded in EAJA fees in partial satisfaction of the § 406(b) award.
4. The net amount of \$19,216.99 shall be disbursed by the Commissioner from any of plaintiff's past-due benefits being withheld and in accordance with agency policy.

Entered August 4, 2023.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge